

## **CONCISE EXPLANATORY STATEMENT**

(RCW 34.05.325 Public participation—Concise explanatory statement)

### **Adoption of permanent rules to amend the Noxious Weed Seed and Plant Quarantine, under chapter 16-752 WAC**

#### **Reasons for Adopting the Rule**

The purpose of the noxious weed seed and plant quarantine rule is to prevent the establishment or spread of noxious weeds within the state by prohibiting their sale and movement. The noxious weed quarantine prohibits the sale of specific plant species that are determined to be invasive, non-native, and harmful to our local ecosystems or disrupt agricultural production. Many of the quarantine species were introduced as ornamentals through the horticulture trade. Most of the listed species in the quarantine are also listed in chapter 16-750 WAC, the state noxious weed list, as a Class A or a Class B noxious weed, requiring mandatory control by county weed boards. However, designation as a noxious weed on the state noxious weed list doesn't prohibit its sale, allowing consumers to buy a plant species that's prohibited by their county weed board. Prohibiting the sale of ornamental plants designated under the state noxious weed list for mandatory control will support the efforts of county weed boards to control noxious weeds. The quarantine is being amended as a result of petitions submitted by the Washington State Noxious Weed Control Board and the Washington Department of Ecology.

#### **Summary of the Public Comment Process**

RCW 34.05.325(1) requires the department to accept written comments on the proposed amendments to chapter 16-752 WAC, if received no later than the time and date specified in the department's notice of proposed rule-making (CR-102). The stated public comment period ran from May 4, 2016 until 5:00 PM on June 9, 2016. RCW 34.05.325(2) requires the department to provide interested parties an opportunity to present oral comments on the proposed rules in a public hearing. The department held a public hearing on June 9, 2016 in Olympia, Washington on the proposal to amend chapter 16-752 WAC. There were no members of the public present at the hearing. However, we received multiple pieces of written testimony.

#### **Summary of Public Comments Received and WSDA Responses**

The public comment period ran from May 4, 2016 until 5:00 PM on June 9, 2016. During that time twelve written comments were received regarding the proposed

amendments. Most responses were in support of our proposed additions to the rule. However, some comments were outside the scope of the rule making proposal and some expressed other concerns. Below are summaries of those comments and the Department's response:

**Subject:** Request that the quarantine rule 16-752 be updated annually to remain consistent with any changes to the state noxious weed list.

**Response:** *RCW 17.10.080 (Noxious Weed - Control Boards) requires annual review of the noxious weed list. There is no such review requirement for chapter 16-752 WAC (Noxious weed control), but WSDA considers all petitions to revise chapter 16-752 WAC. If the petitioner presents data on the distribution of a noxious weed and a risk assessment indicating its establishment could potentially damage Washington plant resources, and that a quarantine listing would prevent that damage, WSDA will consider adding the species to the quarantine list. Most petitions to revise chapter 16-752 WAC are submitted by the Washington State Noxious Weed Control Board (WSNWCB).*

**Subject:** Several species are actively enforced at the county level but are not included on the prohibited plant list. It has been recommended that all Class A, and all Class B weeds designated for control, plus more Class C weeds be included on the quarantine list in the near future. Consistency between the noxious weed list and the prohibited plant list is seen as important, the dual lists result in confusion.

**Response:** *State authority to regulate invasive and noxious plants is two pronged: Chapter 16-750 WAC provides for control of existing infestations on lands at a statewide or county level. Chapter 16-752 WAC further provides for controlling the sale and distribution of weed species, by statewide quarantine.*

*The two lists have different criteria by which species are included. The prohibited plant list is adopted under the authority of chapter 17.24 RCW, which allows WSDA to adopt quarantine rules to protect Washington plant resources against plant pests. A quarantine pest is defined internationally as a pest of potential economic importance that is not yet present or present but not widely distributed and is officially controlled. Noxious weeds that are not wide spread and are officially controlled meet the definition of a quarantine pest and may be considered for listing in chapter 16-752 WAC. However, many weeds listed in chapter 16-750 WAC are too wide spread to be considered quarantine pests. Determining whether a quarantine listing is appropriate for a noxious weed generally requires a survey to determine its presence or distribution, and a risk assessment to determine the potential economic impact of its establishment and how that impact would be mitigated by adding the weed to the quarantine list. Impacts of a quarantine listing on small businesses must also be assessed and considered. Currently, all Class A and many of the Class B noxious weeds are on the quarantine list because they are not widespread and are subjected to mandatory control in all of the state or designated areas of the state. However, Class C noxious weeds are too widespread to be considered quarantine pests.*

*The noxious weed list is adopted under the authority of chapter 17.10 RCW, which has a broader definition of “noxious weed.” It does however define Class A and Class B weeds as non-native plants of limited distribution that are designated for eradication or containment. Class C weeds are defined as typically widespread. While control of some Class C weeds may be enforced by county weed boards, they are too widespread to meet the definition of a quarantine pest.*

**Subject:** Request for different strategies to be considered for grazing pest species vs. urban pest species. “Buddlieas in urban settings are not harmful and help mitigate damage and reduction of wildlife habitat caused by massive development. [Ficaria verna] should be eliminated from areas that are sensitive or used for grazing, but it does not compete in the urban garden. I urge you to consider that grazing land is not the same as urban.”

**Response:** *This comment is outside the scope of the revision. WSDA responded directly to the person submitting the testimony.*

#### **Difference Between Proposed Text and Published Text:**

There are no differences between the proposed and the published text.